

Subpart B—General Provisions

§ 75.100 Purpose.

(a)(1) This part establishes uniform administrative requirements, cost principles, and audit requirements for Federal awards to non-Federal entities, as described in § 75.101. HHS awarding agencies must not impose additional or inconsistent requirements, except as provided in §§ 75.102 and 75.210, or unless specifically required by Federal statute, regulation, or Executive Order.

(2) This part provides the basis for a systematic and periodic collection and uniform submission by Federal agencies of information on all Federal financial assistance programs to the Office of Management and Budget (OMB). It also establishes Federal policies related to the delivery of this information to the public, including through the use of electronic media. It prescribes the manner in which General Services Administration (GSA), OMB, and Federal agencies that administer Federal financial assistance programs are to carry out their statutory responsibilities under the Federal Program Information Act (31 U.S.C. 6101–6106).

(b) *Administrative requirements.* Subparts B through D of this part set forth the uniform administrative requirements for grant and cooperative agreements, including the requirements for HHS awarding agency management of Federal grant programs before the Federal award has been made, and the requirements HHS awarding agencies may impose on non-Federal entities in the Federal award.

(c) *Cost principles.* Subpart E of this part establishes principles for determining the allowable costs incurred by non-Federal entities under Federal awards. The principles are for the purpose of cost determination and are not intended to identify the circumstances or dictate the extent of Federal Government participation in the financing of a particular program or project. The principles are designed to provide that Federal awards bear their fair share of cost recognized under these principles

except where restricted or prohibited by statute.

(d) *Single audit requirements and audit follow-up.* Subpart F of this part is issued pursuant to the Single Audit Act Amendments of 1996, (31 U.S.C. 7501–7507). It sets forth standards for obtaining consistency and uniformity among Federal agencies for the audit of non-Federal entities expending Federal awards. These provisions also provide the policies and procedures for HHS awarding agencies and pass-through entities when using the results of these audits.

(e) For OMB guidance to Federal awarding agencies on Challenges and Prizes, please see M–10–11 Guidance on the Use of Challenges and Prizes to Promote Open Government, issued March 8, 2010, or its successor.

§ 75.101 Applicability.

(a) *General applicability to Federal agencies.* The requirements established in this part apply to Federal agencies that make Federal awards to non-Federal entities. These requirements are applicable to all costs related to Federal awards.

(b)(1) *Applicability to different types of Federal awards.* The following table describes what portions of this part apply to which types of Federal awards. The terms and conditions of Federal awards (including this part) flow down to subawards to subrecipients unless a particular section of this part or the terms and conditions of the Federal award specifically indicate otherwise. This means that non-Federal entities must comply with requirements in this part regardless of whether the non-Federal entity is a recipient or subrecipient of a Federal award. Pass-through entities must comply with the requirements described in subpart D of this part, §§ 75.351 through 75.353, but not any requirements in this part directed towards Federal awarding agencies unless the requirements of this part or the terms and conditions of the Federal award indicate otherwise. This table must be read along with the other provisions in this section

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The following portions of the part:	Are applicable to the following types of Federal Awards (except as noted in paragraphs (d) and (e)) below:	Are NOT applicable to the following types of Federal Awards:
Subpart A—Acronyms and Definitions. Subpart B—General Provisions, except for §§ 75.111, 75.112, and 75.113.. Sections 75.111, 75.112, and 75.113.	—All. —All. —Grant agreements and cooperative agreements.	—Agreements for: loans, loan guarantees, interest subsidies and insurance —Cost-reimbursement contracts awarded under the Federal Acquisition Regulations and cost-reimbursement and subcontracts under these contracts —Fixed-price contracts and subcontracts awarded under the Federal Acquisition Regulation whenever cost analysis is performed or the contract requires the determination or negotiation of costs
Subparts C–D, except for Subrecipient Monitoring and Management.	—Grant agreements and cooperative agreements.	—Agreements for: loans, loan guarantees, interest subsidies and insurance —Cost-reimbursement contracts awarded under the Federal Acquisition Regulations and cost-reimbursement and subcontracts under these contracts —Fixed-price contracts and subcontracts awarded under the Federal Acquisition Regulation whenever cost analysis is performed or the contract requires the determination or negotiation of costs
Subpart D—Post Federal Award Requirements, Subrecipient Monitoring and Management. Subpart E—Cost Principles.	—All. —Grant agreements and cooperative agreements, except those providing food commodities. —Cost-reimbursement contracts awarded under the Federal Acquisition Regulations and cost-reimbursement and subcontracts under these contracts in accordance with the FAR. —Fixed-price contracts and subcontracts awarded under the Federal Acquisition Regulation whenever cost analysis is performed or the contract requires the determination or negotiation of costs.	—Grant agreements and cooperative agreements providing food commodities —Fixed amount awards —Agreements for: loans, loan guarantees, interest subsidies and insurance —Federal awards to hospitals (See appendix IX)
Subpart F—Audit Requirements.	—All	

(2) Federal award of cost-reimbursement contract under the FAR to a non-Federal entity. When a non-Federal entity is awarded a cost-reimbursement contract, only subpart D of this part, §§ 75.351 through 75.353 (in addition to any FAR related requirements for monitoring subpart E of this part and subpart F of this part are incorporated by reference into the contract. However, when the Cost Accounting Standards (CAS) are applicable to the contract, they take precedence over the requirements of this part except for subpart F of this part when they are in conflict. In addition, costs that are made unallowable under 10 U.S.C.

2324(e) and 41 U.S.C. 4304(a) as described in the FAR subpart 31.2 and subpart 31.603 are always unallowable. For requirements other than those covered in subpart D of this part, §§ 75.351 through 75.353, subpart E of this part and subpart F of this part, the terms of the contract and the FAR apply.

(3) With the exception of subpart F of this part, which is required by the Single Audit Act, in any circumstances where the provisions of Federal statutes or regulations differ from the provisions of this part, the provision of the Federal statutes or regulations govern. This includes, for agreements with Indian tribes, the provisions of

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the Indian Self-Determination and Education and Assistance Act (ISDEAA), as amended, 25 U.S.C. 450–458ddd–2.

(c) HHS awarding agencies may apply subparts A through E of this part to Federal agencies (see § 75.215), for-profit entities, foreign public entities, or foreign organizations, except where the HHS awarding agency determines that the application of these subparts would be inconsistent with the international obligations of the United States or the statutes or regulations of a foreign government.

(d) Except for § 75.202 and §§ 75.351 through 75.353 of subpart D of this part, the requirements in subpart C of this part, subpart D of this part, and subpart E of this part do not apply to the following programs:

(1) The block grant awards authorized by the Omnibus Budget Reconciliation Act of 1981 (including Community Services, except to the extent that the cost and accounting standards of OMB apply to subrecipients of Community Services Block Grant funds pursuant to 42 U.S.C. 9916(a)(1)(B); Preventive Health and Health Services; Alcohol, Drug Abuse, and Mental Health Services; Maternal and Child Health Services; Social Services; Low-Income Home Energy Assistance; States' Program of Community Development Block Grant Awards for Small Cities; and Elementary and Secondary Education other than programs administered by the Secretary of Education under title V, subtitle D, chapter 2, section 583—the Secretary's discretionary award program) and both the Alcohol and Drug Abuse Treatment and Rehabilitation Block Grant Award (42 U.S.C. 300x–21 to 300x–35 and 42 U.S.C. 300x–51 to 300x–64) and the Mental Health Service for the Homeless Block Grant Award (42 U.S.C. 300x to 300x–9) under the Public Health Service Act.

(2) Federal awards to local education agencies under 20 U.S.C. 7702–7703b, (portions of the Impact Aid program);

(3) Payments under the Department of Veterans Affairs' State Home Per Diem Program (38 U.S.C. 1741); and

(4) Federal awards authorized under the Child Care and Development Block Grant Act of 1990, as amended:

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(i) Child Care and Development Block Grant (42 U.S.C. 9858)

(ii) Child Care Mandatory and Matching Funds of the Child Care and Development Fund (42 U.S.C. 9858)

(e) Except for § 75.202, the guidance in subpart C of this part does not apply to the following programs:

(1) Federal awards to carry out the following programs of the Social Security Act:

(i) Temporary Assistance for Needy Families (title IV–A of the Social Security Act, 42 U.S.C. 601–619);

(ii) Child Support Enforcement and Establishment of Paternity (title IV–D of the Social Security Act, 42 U.S.C. 651–669b);

(iii) Foster Care and Adoption Assistance (title IV–E of the Act, 42 U.S.C. 670–679c);

(iv) Aid to the Aged, Blind, and Disabled (titles I, X, XIV, and XVI–AABD of the Act, as amended);

(v) Medical Assistance (Medicaid) (title XIX of the Act, 42 U.S.C. 1396–1396w–5) not including the State Medicaid Fraud Control program authorized by § 1903(a)(6)(B) of the Social Security Act (42 U.S.C. 1396b(a)(6)(B)); and

(vi) Children's Health Insurance Program (title XXI of the Act, 42 U.S.C. 1397aa–1397mm).

(2) A Federal award for an experimental, pilot, or demonstration project that is also supported by a Federal award listed in paragraph (e)(1) of this section;

(3) Federal awards under subsection 412(e) of the Immigration and Nationality Act and subsection 501(a) of the Refugee Education Assistance Act of 1980 (Pub. L. 96–422, 94 Stat. 1809), for cash assistance, medical assistance, and supplemental security income benefits to refugees and entrants and the administrative costs of providing the assistance and benefits (8 U.S.C. 1522(e));

(4) Entitlement awards under the following programs of The National School Lunch Act:

(i) National School Lunch Program (section 4 of the Act, 42 U.S.C. 1753),

(ii) Commodity Assistance (section 6 of the Act, 42 U.S.C. 1755),

(iii) Special Meal Assistance (section 11 of the Act, 42 U.S.C. 1759a),

(iv) Summer Food Service Program for Children (section 13 of the Act, 42 U.S.C. 1761), and

(v) Child and Adult Care Food Program (section 17 of the Act, 42 U.S.C. 1766).

(5) Entitlement awards under the following programs of The Child Nutrition Act of 1966:

(i) Special Milk Program (section 3 of the Act, 42 U.S.C. 1772),

(ii) School Breakfast Program (section 4 of the Act, 42 U.S.C. 1773), and

(iii) State Administrative Expenses (section 7 of the Act, 42 U.S.C. 1776).

(6) Entitlement awards for State Administrative Expenses under The Food and Nutrition Act of 2008 (section 16 of the Act, 7 U.S.C. 2025).

(7) Non-discretionary Federal awards under the following non-entitlement programs:

(i) Special Supplemental Nutrition Program for Women, Infants and Children (section 17 of the Child Nutrition Act of 1966) 42 U.S.C. 1786;

(ii) The Emergency Food Assistance Programs (Emergency Food Assistance Act of 1983) 7 U.S.C. 7501 note; and

(iii) Commodity Supplemental Food Program (section 5 of the Agriculture and Consumer Protection Act of 1973) 7 U.S.C. 612c note.

§ 75.102 Exceptions.

(a) With the exception of subpart F of this part, OMB may allow exceptions for classes of Federal awards or non-Federal entities subject to the requirements of this part when exceptions are not prohibited by statute. However, in the interest of maximum uniformity, exceptions from the requirements of this part will be permitted only in unusual circumstances. Exceptions for classes of Federal awards or non-Federal entities will be published on the OMB Web site at www.whitehouse.gov/omb.

(b) Exceptions on a case-by-case basis for individual non-Federal entities may be authorized by the HHS awarding agency or cognizant agency for indirect costs except where otherwise required by law or where OMB or other approval is expressly required by this part. No case-by-case exceptions may be granted to the provisions of subpart F of this part.

(c) The HHS awarding agency may apply more restrictive requirements to a class of Federal awards or non-Federal entities when approved by OMB, or when required by Federal statutes or regulations, except for the requirements in subpart F of this part. An HHS awarding agency may apply less restrictive requirements when making fixed amount awards as defined in subpart A of this part, except for those requirements imposed by statute or in subpart F of this part.

(d) On a case-by-case basis, OMB will approve new strategies for Federal awards when proposed by the HHS awarding agency in accordance with OMB guidance (such as M-13-17) to develop additional evidence relevant to addressing important policy challenges or to promote cost-effectiveness in and across Federal programs. Proposals may draw on the innovative program designs discussed in M-13-17 to expand or improve the use of effective practices in delivering Federal financial assistance while also encouraging innovation in service delivery. Proposals submitted to OMB in accordance with M-13-17 may include requests to waive requirements other than those in subpart F of this part.

§ 75.103 Authorities.

This part is issued under the following authorities.

(a) Subpart B of this part through subpart D of this part are authorized under 31 U.S.C. 503 (the Chief Financial Officers Act, Functions of the Deputy Director for Management), 31 U.S.C. 1111 (Improving Economy and Efficiency of the United States Government), 41 U.S.C. 1101-1131 (the Office of Federal Procurement Policy Act), Reorganization Plan No. 2 of 1970, and Executive Order 11541, the Single Audit Act Amendments of 1996, (31 U.S.C. 7501-7507), as well as The Federal Program Information Act (Public Law 95-220 and Public Law 98-169, as amended, codified at 31 U.S.C. 6101-6106).

(b) Subpart E of this part is authorized under the Budget and Accounting Act of 1921, as amended; the Budget and Accounting Procedures Act of 1950, as amended (31 U.S.C. 1101-1125); the Chief Financial Officers Act of 1990 (31 U.S.C. 503-504); Reorganization Plan